



International Conference on the Great Lakes Region

Protocol on Democracy and Good Governance

1st December 2006

PREAMBLE

We, Heads of State and Government of the Member States of the International Conference on the Great Lakes Region;

Referring to the Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region adopted and signed in Dar-es-Salaam (United Republic of Tanzania) on 20 November 2004;

Mindful that the Dar-Es-Salaam Declaration lays the foundations for lasting peace and stability;

Affirming that, in accordance with the Constitutive Act of the African Union the scourge of conflicts in Africa is a major obstacle to the socio-economic development of the continent and that it is necessary to promote peace, security and stability, the preconditions to implementing development and integration programmes;

Conscious of the fact that the accumulated deficits in the matter of democratization are at the origin of the conflicts in the Great Lakes Region;

Considering that the respect for human rights guarantees the consolidation of peace and security in the Great Lakes Region;

Mindful that the Universal Declaration on Human rights, on one hand the African Charter on Human and Peoples' Rights, on the other hand, have stipulated that everyone can enjoy all the rights and freedoms stated therein, without any distinction, in particular of race, colour, sex, language, religion, political opinion or any other opinion, national or social origin, wealth, birth or any other situation;

Considering the solemn commitment contained in the Dar-Es-Salaam Declaration to build a Great Lakes Region that is open to other regions of the continent by building cooperation on priority areas: peace and security, democracy and good governance, economic development and regional integration and humanitarian and social issues;

Reaffirming the commitment expressed in the Dar-Es-Salaam Declaration to respect the principles of democracy and good governance, as well as the basic principles of the United Nations Charter and the Constitutive Act of the African Union including territorial integrity, sovereignty, non interference and non aggression, prohibition of any Member State from permitting the use of its territory by armed groups as a base for aggression and subversion against another Member State, as well as the need for effective and sustainable political will to jointly seek peaceful solutions and in particular, to honour the commitments made by States Party in the spirit of mutual trust, in accordance with the Dar es Salaam Declaration;

Reaffirming the principle of equality between men and women as laid down in the United Nations Charter,, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Elimination of all forms of Racial Discrimination, the Convention against Corruption, Resolution 1325 of the UN, the Action Platform and Declaration of Beijing, the Millennium Development Goals, the Constitutive Act of the African Union, the New Partnership for Africa's Development (NEPAD), the African Charter on Human and People's

Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Solemn Declaration of the African Union on Equality between Men and Women in Africa which emphasizes the commitment of the African States to ensure the full participation of African women in the development of Africa as equal partners;

Mindful of the Dar-Es-Salaam Declaration which recognizes that discrimination against women at all decision making levels, in the areas of peace and security, democracy and political, economic and social governance, needs to be addressed immediately in a proactive and sustainable manner;

Recalling resolution 2000/64 and resolution 2001/72 of the Commission on Human rights, which reaffirmed that good governance requires the respect of principles of transparency, responsibility, and accountability;

Recalling the Declaration of the African Union governing democratic elections in Africa and the relevant resolutions of the United Nations General Assembly;

Determined to consolidate democratic institutions and culture, to promote good governance and the rule of law and to promote and protect human and people's rights;

Agree as follows:

CHAPTER I

General Provisions

Article 1

Definitions

For the purposes of this Protocol, unless where the context otherwise requires:

- a) **“The African Charter on the Rights and Welfare of the Child “** refers to the charter on the promotion and protection of the rights and welfare of the child adopted by the Heads of State and Government of the Organisation of African Unity on 11 July 1990;
- b) **“Convention on the Rights of the child”** means, the convention on the promotion and protection of the rights of the child adopted by the United Nations General Assembly on 20 November 1989;
- c) **“Convention on the Elimination of Discrimination against Women”** refers to the Convention on the Elimination of all forms of Discrimination against women adopted by the United Nations General Assembly on 18 December 1979;
- d) **“Geneva Conventions”** refer to the 4 Conventions regulating the conduct of armed conflict which were adopted in Geneva on 12 August 1949 by the Diplomatic Conference and The Protocols Additional to the Geneva Conventions adopted on 8 June 1977;
- e) **“Solemn Declaration”** refers to the solemn declaration on the equality between men and women instituting parity in Africa, adopted by the Heads of states and Governments of the African Union on 8 July 2004;
- f) **“Discrimination”** means any distinction, exclusion, restriction or preference based on race, sex, language, religion, colour, ancestry or national or ethnic origin, the purpose or the effect of which is to destroy or undermine the recognition, the possession or the exercise, in conditions of equality, of human rights and fundamental freedoms in the political, economic, social and cultural fields or in any other area of life;
- g) **“Member State”** means the Member State of the International Conference on the Great Lakes Region having ratified this protocol or having acceded to it;
- h) **“ILO”** refers to the International Labour Organisation;
- i) **“Beijing Declaration and Platform of Action of Beijing”** means the Declaration and Action Platform adopted at the fourth global summit on women organized by the United Nations in September 1995;
- j) **“The Protocol related to Women’s Rights in Africa”**, refers to the Protocol on Women’s Rights in Africa adopted on 11 June 2003 by the Heads of State and Governments of the African Union;

- k) “**Resolution 1325**” refers to the resolution on the involvement of women in peace and security operations adopted by the United Nations Security Council on 31 October 2000.

CHAPTER II

The Principles of Constitutional Convergence

Article 2

The Member States undertake to abide by the following constitutional principles:

- a) The separation of powers;
- b) The accession to power through regular, free, fair and transparent elections;
- c) The prohibition of unconstitutional change and any other undemocratic means of acceding to or maintaining power;
- d) The public participation in decision-making process in accordance with democratic principles and decentralization;
- e) The decentralisation of power at all levels of governments;
- f) The non-partisan character of the defence and security forces;
- g) The secular nature of the state and its institutions;
- h) The promotion of national unity of the state and its institutions;
- i) The prohibition of any ethnic, religious, racial, gender or regional discrimination;
- j) The equality of men and women, including through affirmative action policies;
- k) The political pluralism;
- l) The freedom of association, assembly and peaceful demonstration;
- m) The freedom of expression;
- n) The freedom of movement and prohibition of forced exile.

CHAPTER III

Elections

Article 3

Right to Vote

Member States shall guarantee all eligible citizens the right to vote and be elected without discrimination.

Article 4

Amendment of the Electoral Law

No substantial reform of the electoral law should occur during the six (6) months preceding the elections without the agreement of a large majority of social and political actors.

Article 5

Election Date

1. The elections at all levels shall take place on the dates or during the periods fixed by the constitution or the electoral laws in good time so that the whole electoral process including the settlement of electoral disputes be completed before the end of the mandate stipulated for elected officials.

Article 6

Women's Vote

Member States shall take appropriate steps to guarantee that women are accorded the equal right to vote and be elected, to participate in the formulation and implementation of government policies and to hold public office and carry out public functions at all levels of decision-making.

Article 7

Independence of Electoral Institutions

1. The institutions charged with organizing the elections shall be independent and non-partisan. Member States shall organize within their jurisdiction appropriate national consultations to determine the nature and form of the said institutions.

2. The principle of gender parity shall be reflected in the composition of these institutions.

Article 8

National Registration Systems

1. Each Member State shall ensure that there is established a national registration system.

2. Member States shall cooperate in this regard by exchanging experiences and technical assistance in the production of voters' registers.

Article 9

Establishing Voters Registers

The electoral institutions shall maintain transparent and credible voters' registers, which shall be open to all stakeholders for inspection from time to time.

Article 10

Transparency

The general organization, the conduct of elections and the declaration of results shall be done in a transparent manner.

Article 11

Resolution of Electoral Disputes

A credible electoral dispute resolution mechanism pertaining to the financing, organizing and conducting of elections and declaring of the results shall be put in place.

Article 12

Role of Civil Society

The relevant civil society organizations shall be given the opportunity to participate in voter education, raising awareness about peaceful elections, observation and follow-up of the electoral process.

Article 13

Participation of the Conference

At the request of any Member State, the International Conference may provide help and assistance in organising and running any election in the requesting Member State;

Similarly, the Conference may send an election monitoring or observation mission to the country concerned.

Article 14

Observer Mission

1. The Conference shall appoint the head and the members of the observer mission who shall be independent and of a nationality other than that of the State in which the elections are to be held.

2. The observer missions shall respect the principle of gender parity in their composition.

Article 15

Duration of the Mission

1. The observer mission shall arrive in the Member State concerned at least seventy- two hours prior to the date of the elections.

2. The observer mission shall cover the entire duration of the elections up to the declaration of the results.

Article 16

Neutrality and Confidentiality

Members of the observer mission shall be bound by the principles of neutrality and confidentiality and shall not be allowed to make any individual declaration. Any declaration or statement of the observer mission shall be collective and can only be made by the head of mission or a spokesperson designated for this purpose.

Article 17

Report of Observer Mission

1. The observer mission shall promptly prepare and submit a report to the Inter-Ministerial Committee.

2. The report shall include:

- a) The observations made by the mission;
- b) The evidence gathered;
- c) The assessment of the conduct of the elections in relation to the national electoral legislation and the universally accepted principles;
- d) The recommendations on the lessons learnt for the future conduct of elections and observer missions.

Article 18

Preparation of the Mission Report

Members of the observer mission shall hold a consultative meeting among themselves in order to agree upon the contents of the report before leaving the host Member State.

Any member of the mission unable to attend the said meeting shall hand in written comments and observations to the head of mission before leaving the country.

The report by the observer mission shall be signed by all members of the mission and submitted to the acting Chairperson by the head of mission not later than fifteen days after the end of the mission.

Article 19

Transmission of the Report

The report shall be transmitted by the current Chairperson of the Inter-Ministerial Committee to the Summit which may advise the Member State concerned on the recommendations made.

CHAPTER IV

The Role of the Defence and the Security Forces in a Democratic System

Article 20

The Role of Defence and Security Forces

1. Defence and security forces shall maintain their republican status and shall be at the service of the Member States to which they belong.
2. Their role is to defend the Member State's sovereignty, territorial integrity and their democratic institutions and may be deployed for tasks of national development.
3. The role of the security forces is to enforce law and order and protect people and property.

Article 21

The Non-partisan and Professional Nature of the Defence and Security Forces

1. Defence and security forces shall be non-partisan and shall be answerable to legitimate civil authorities
2. Civil authorities shall respect the neutrality of the defence forces. Members of defence and security forces shall not take active part in political activity or propaganda.

Article 22

Individual Member Rights

Subject to the rules and regulations governing their establishment, members of the defence and security forces shall enjoy all the rights of citizens as guaranteed by the constitution.

Article 23

Use of Force

1. The use of any type of weapon to disperse non-violent meetings or demonstrations is prohibited.
2. In the case of a violent demonstrations, the minimal use of force may be authorised to the extent necessary to maintain order and security.

Article 24

Prohibition of Torture and Arbitrary Practices

1. Defence and security forces shall not resort to torture and other cruel, inhuman and degrading treatment.

2. Defence and security forces shall not harass or arbitrarily arrest parents, members of the family or relatives of the suspect during investigations.

Article 25

Civic Education

1. Defence and security forces training curriculum shall include education in constitutional values, international humanitarian law and international human rights as well as principles of the rule of law and democracy.

2. Each Member State shall endeavor to establish joint training and education programmes between members of defence and security forces and other sectors of society.

3. Similarly, joint regional training with armies of Member States and with the police forces and civil society shall be organised.

CHAPTER V

Eradication of Extreme Poverty and Promotion of Dialogue

Article 26

Recognition

Member States hereby recognise that the eradication of extreme poverty and the promotion of dialogue are essential factors for peace and stability in the region.

Article 27

Campaign Against Poverty

1. Member States undertake to effectively combat and eradicate extreme poverty in their respective countries.

2. In this respect, Member States undertake to provide for the essential needs of their populations and to improve the delivery of essential services particularly by:

- a) Putting in place the necessary laws and policies to promote employment and the development of the social sector;
- b) Ensuring an equitable distribution of resources and incomes with the aim of strengthening national cohesion and stability;
- c) Promoting the integration of economic, financial and banking activities by harmonising commercial and financial legislation and policy;
- d) Creating an enabling environment for private investment and the development of a dynamic and competitive private sector;
- e) Putting in place necessary legal and investment policy frameworks for the promotion of intra-regional and international trade and investment;

- f) Putting in place mechanisms to promote and protect democracy and mainstream the participation of women in all aspects mentioned in all areas;
- g) Ensuring macro-economic stability to promote economic growth in order to combat poverty;
- h) Finalising and putting in place Poverty Reduction Strategy Plans that form the framework of the partnership against poverty;
- i) Ensuring transparency and accountability at all levels.

Article 28

Promotion of Dialogue

1. Member States hereby undertake to promote dialogue across all sectors of society.
2. In this respect, civil society, women, youth, persons with disabilities, trade unions, employers' associations, chambers of commerce and other related organizations shall be encouraged and strengthened within each Member State.
3. Each Member State undertakes to provide conducive environment for regular dialogue between and among trade unions, employers associations, chambers of commerce and other related organizations of civil society, women organisations and government authorities.
4. Each Member State undertakes to encourage the dialogue between and among the informal sector with a view to organizing themselves in a such way as to contribute to national economy.

Article 29

Decentralization and Popular Participation

Member States shall undertake to adopt and implement decentralisation policies with a view to ensuring the full participation of local communities, the civil society and private sector in the development and implementation of national economic development and social policies and programmes.

CHAPTER VI

Education, Culture and Religion

Article 30

Role of Education, Culture and Religion

1. Member States recognise that education, culture as well as religion are essential factors of peace, stability and development in each Member State.
2. Member States undertake to promote and to protect the right to education, cultural diversity and freedom of worship.

Article 31

Non-discrimination in Education

Member States shall formulate and implement policies that promote education at all levels and in all educational sectors without any discrimination based on race, colour, sex, language, religion, political ideology, ethnicity, social status or any other grounds, with particular attention to the education of the girl- child.

Article 32

Affirmative Action

Member States shall put in place policies that will take into account affirmative action with a view to addressing the social, political, economic, cultural, historical and other prejudices which have deprived women equal treatment and opportunities with men in the educational sector.

Article 33

Respect for Cultural Diversity

Member States hereby recognize the existence of different and diverse communities with distinct cultures and languages in their territories. To this end, Member States undertake to protect and promote cultural diversity of those communities.

Article 34

Religious Tolerance

1. Member States undertake to take measures to promote religious tolerance as well as inter religious dialogue with a view to preventing religious conflicts.
2. To this end, Member States shall endeavour to encourage and support the establishment of permanent religious consultative forums at national and regional levels.

CHAPTER VI

Good Governance, the Rule of Law and Human Rights

Article 35

Undertaking

Member States undertake to promote good governance, the rule of law and human rights as the foundations of democracy.

Article 36

Good Governance

1. Member States recognize that good governance is essential for ensuring social justice, prevention of conflict, safeguarding political stability and peace as well as strengthening democracy.
2. Member States undertake to promote the protection of the environment through institutional capacity building in environmental management and good governance, and to coordinate environmental activities related to human settlement by raising awareness both with governmental and society level.

Article 37

Rule of Law

Member States recognize that the rule of law not only implies equality before the law and equal protection by the law, but also an independent judicial system, and an efficient and transparent public administration.

Article 38

Human Rights

Member States recognize that respect for human rights is the best guarantee against threats to peace, political stability and development.

Article 39

National and Regional Institutions and Mechanisms for the Protection of Human Rights

Member States undertake to establish national and regional institutions and mechanisms to protect human rights and to provide them with the necessary support to perform their duties.

Article 40

Mediation

1. Member States undertake to put in place regional mediation mechanisms in order to facilitate access to justice, conflict resolution and reconciliation.
2. Member States further undertake to provide the necessary support to ensure that mediation mechanisms discharge their duties effectively.

Article 41

Development of the Media

Member States undertake to promote a responsible, professional, liberalized and independent media and guarantee access to information.

Article 42

Role of Civil Society

1. Member States recognise the important role that civil society organisations play in a democratic State.
2. In this regard, they undertake to facilitate their involvement in the achievement of the objectives of the present Protocol.

Article 43

Fight against Corruption

1. Member States recognize that corruption is an offence and a major obstacle to development, peace and stability in the region.
2. To this end, Member States undertake to fight corruption and ensure transparency in the management and equitable distribution of resources.
3. In this context, Member States undertake to strengthen and/or establish independent anti-corruption bodies with adequate resources and to adopt effective policies and laws to address the problem of corruption at the national and regional levels.
4. Member States undertake to cooperate in order to guarantee the return of stolen goods and misappropriated funds at the expense of a state or member state.
5. To this end, Member States shall secure the cooperation of the African Union and other relevant organizations.

CHAPTER VIII

Women, Children and Youth

Article 44

Protection of Women's Rights

1. Member States recognize that empowerment of women and protection of their rights guarantee development and peace in society.

2. To this end, Member States undertake to establish appropriate mechanisms and adopt a regional gender policy to promote women's rights and to eliminate all forms of prejudices, degrading and discriminatory practices against them in accordance with appropriate national, regional and international standards in force.

Article 45

Children's Rights

1. Member States shall protect the rights of children and ensure their welfare in accordance with the United Nations Convention on the Rights of the Child and the African Charter on the Rights and the Welfare of the Child.

2. To this end, Member States shall guarantee access to education for all children and put in place a mechanism to prevent trafficking in children.

3. In addition, Member States undertake to adopt International Labour Organization (ILO) directives on child labour and further undertake to take steps to prevent the enlistment of children under fifteen years of age in the army or their direct or indirect participation in armed conflicts.

Article 46

The Youth

1. Member States shall put in place guidelines aimed at training and promoting participation of the youth in all areas of development.

2. To this end, Member States undertake to harmonise their respective legislations as regards prevention of juvenile delinquency and rehabilitation at local and regional levels.

3. Member States shall put in place policies and legislation to ensure the empowerment and employment of the youth, the protection of their rights and their participation in political processes.

CHAPTER IX

Rights of Vulnerable Groups

Article 47

Promotion and Protection

Member States recognize that due to historical, political and socio-economic inequalities, some sections of society have been less privileged and disadvantaged and hence undertake:

(a). To put in place policies and programmes aimed at addressing these inequalities and take affirmative action to ensure that vulnerable members of society participate in the governance and development process;

(b) Further to put in place initiatives aimed at protecting the interests and the rights of vulnerable groups such as internally displaced persons, refugees, the elderly, the persons with disabilities and the sick including persons living with HIV/AIDS.

CHAPTER X

Urgent Measures and Sanctions in case of Threats or Breakdown of Democracy

Article 48

Urgent Measures

In the event of threats to democracy and a beginning of its breakdown by whatever process and in the event of massive violations of human and peoples' rights in a Member State, the Summit shall convene an extraordinary session in order to adopt urgent and appropriate measures to put an end to the situation, including the measures and sanctions described in Article 49 .

Article 49

Sanctions

1. The Conference shall take one or more of the following measures against the Member State concerned:

- a) Referring the matter to the African Union and the United Nations for action in accordance with established procedures;
- b) Refusal to support the candidatures to elective positions in international organisations presented by the Member State concerned ;
- c) Refusal to hold any meeting of the International Conference in the Member State concerned ;
- d) Suspension of the Member State concerned in all bodies of the Conference; during the suspension, the Member State concerned will continue to be bound to pay its contributions for the period of the suspension.

2. The Inter-Ministerial Committee will continue to monitor, encourage and support any effort made by the suspended Member State with a view to returning to normal institutional life and the respect of human rights.

Article 50

Practical Modalities of Application

1. Member States undertake to establish national and regional programs on practical modalities of application to ensure the effectiveness of the rule of law, human rights and good governance.
2. Member States undertake to ensure responsibility, professionalism, competence and transparency in public and private sectors.

CHAPTER XI

Final Provisions

Article 51

1. This Protocol shall be an integral part of the Pact and shall not be subject to separate signature and ratification by the Member States.
2. For any Member State which has ratified the Pact in terms set out in Article 30 of the Pact, this Protocol shall automatically enter into force at the same time as the Pact in accordance with Article 33 of the Pact.
3. Nothing contained in this Protocol shall be construed to be contrary to the provisions of the Pact, the Constitutive Act of the African Union, and the Charter of the United Nations.